37 pv

MT LEGISLATIVE HISTORY

Chapter 455 1979

Bill H_____ S 503 Original bill & hist. ✓ C

H. Committee on Local Gov't. S. Committee on Local Gov't.

Hearing Date(s)	_____	___C	Hearing Date(s)	_____	___C
	_____	___C		_____	___C
	3/8	✓ C		2/15	✓ C
	_____	___C		_____	___C
Date Out	3/15	✓ C		2/17	✓ C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report_____

CHAPTER NO. 455

SENATE BILL NO. 503

INTRODUCED BY LOCKREM, WATT

IN THE SENATE

February 13, 1979	Introduced and referred to Committee on Local Government.
February 17, 1979	Committee recommend bill do pass as amended. Report adopted.
February 19, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass.
February 21, 1979	Considered correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 23, 1979	Introduced and referred to Committee on Local Government.
March 15, 1979	Committee recommend bill be concurred in. Report adopted.
March 16, 1979	Second reading, concurred in.
March 20, 1979	Third reading, concurred in.

IN THE SENATE

March 21, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

Senate BILL NO. 503

INTRODUCED BY Lockrem Watt

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH GENERAL PROVISIONS AND DEFINITIONS COMMON TO ALL FORMS OF MUNICIPAL GOVERNMENT WITH GENERAL POWERS; TO OUTLINE GENERAL POWERS; AND TO ESTABLISH BASIC REQUIREMENTS FOR PUBLIC MEETINGS, RECORDS, AND REPORTS; REPEALING SECTIONS 7-1-4103 AND 7-1-4104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. General definitions. As used in [sections 1 through 29], unless otherwise provided, the following definitions apply:

(1) "Charter" means a written document defining the powers, structure, privileges, rights, and duties of the government and limitations thereon.

(2) "Chief executive" means the elected executive in a government adopting the commission-executive form, the manager in a government adopting the commission-manager form, the chairman in a government adopting the commission-chairman form, the town chairman in a government adopting the town meeting form, the commission acting as a body in a government adopting the commission form, or the officer or officers so designated in the charter in a

government adopting a charter.

(3) "Elector" means a resident of the municipality qualified and registered to vote under state law.

(4) "Employee" means a person other than an officer who is employed by a municipality.

(5) "Executive branch" means that part of the municipality, including departments, offices, and boards, charged with implementing actions approved and administering policies adopted by the governing body of the local government or performing the duties required by law.

(6) "Governing body" means the commission or town meeting legislative body established in the alternative form of local government.

(7) "Guideline" means a suggested or recommended standard or procedure to serve as an index of comparison and is not enforceable as a regulation.

(8) "Law" means a statute enacted by the legislature of Montana and approved and signed by the governor or a statute adopted by the people of Montana through statutory initiative procedures.

(9) "Municipality" means an entity which incorporates as a city or town.

(10) "Office of the municipality" means the permanent location of the seat of government from which the records administrator, or the office of the clerk of the governing

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INTRODUCED BILL

body where one is appointed, carries out his duties.

(11) "Officer" means a person holding a position with a municipality which is ordinarily filled by election or, in those municipalities with a manager, the manager.

(12) "Ordinance" means an act adopted and approved by a municipality, having effect only within the jurisdiction of the local government.

(13) "Person" means any individual, firm, partnership, company, corporation, trust, trustee, assignee or other representative, association, or other organized group.

(14) "Plan of government" means a certificate submitted by a governing body that documents the basic form of government selected, including all applicable suboptions. The plan must establish the terms of all officers and the number of commissioners, if any, to be elected.

(15) "Political subdivision" refers to a local government, authority, school district, or multicounty agency.

(16) "Population" means the number of inhabitants as determined by an official federal, state, or local census or official population estimate approved by the department of community affairs.

(17) "Printed" means the act of reproducing a design on a surface by any process as defined by 1-1-203(3).

(18) "Public agency" means a political subdivision,

Indian tribal council, state or federal department or office, or the Dominion of Canada or any provincial department or office or political subdivision thereof.

(19) "Public property" means any and all property owned by a municipality or held in the name of a municipality by any of the departments, boards, or authorities of the local government.

(20) "Real property" means lands, structures, buildings, and interests in land, including lands under water and riparian rights, and all things and rights usually included within the term "real property", including not only fee simple absolute but also all lesser interests such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property.

(21) "Reproduced" means the act of reproducing a design on any surface by any process.

(22) "Resolution" means a statement of policy by the governing body or an order by the governing body that a specific action be taken.

(23) "Service" means an authorized function or activity performed by local government.

(24) "Structure" means the entire governmental organization through which a local government carries out its duties, functions, and responsibilities.

Section 2. Administrative rules. The governing body may by ordinance authorize the chief executive to adopt administrative rules. All administrative rules shall be entered in an administrative code that shall be available in the office of the municipality.

Section 3. Publish notice. (1) When a municipality is required to publish notice, publications shall be in a newspaper, except that in a municipality with a population of 500 or less or in which no newspaper is published, publication may be made by posting in three public places in the municipality, which have been designated by ordinance.

(2) The newspaper shall be:

(a) of general paid circulation with a second-class mailing permit;

(b) published at least once a week;

(c) published in the county where the municipality is located;

(d) published continuously in the county for the 12 months preceding the awarding of the contract.

(3) In a county where no newspaper meets these qualifications, publication shall be made in a qualified newspaper in an adjacent county.

(4) If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.

Section 4. Notice. When notice of a hearing or other official act is required, the following shall apply:

(1) The notice shall be published two times with at least 6 days separating each publication. The first publication shall be no more than 21 days prior to the action and the last no less than 3 days prior to the action.

(2) The published notice shall contain:

(a) the date, time, and place at which the hearing or other action will occur;

(b) a brief statement of the action to be taken;

(c) the address and telephone number of the person who can be contacted for further information on the action to be taken; and

(d) any other information required by the specific section requiring notice.

(3) A published notice required by law may be supplemented by a radio or television broadcast of the notice in the manner prescribed in 20-3-105 through 20-3-107.

Section 5. Mail notice. (1) Unless otherwise specifically provided, when a municipality is required to give notice of a hearing or other official act by mail, the requirement may be met by:

(a) deposit of the notice properly addressed in the United States mail with postage paid at the first-class

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rate;

(b) sending the notice by registered or certified mail rather than first class; or

(c) mailing the notice at the bulk rate instead of first class when notice is to be given by mail to all electors or residents of a municipality.

(2) The notice shall contain:

(a) the date, time, and place at which the hearing or other action will be taken;

(b) a brief statement of the action to be taken;

(c) the address and telephone number of the person who can be contacted for further information on the action to be taken; and

(d) any other information required by the specific section requiring mail notice.

(3) When notice by mail is required, the requirement shall apply only to persons whose addresses are known.

Section 6. Petition. (1) Whenever a petition is authorized, unless the section authorizing the petition establishes different criteria, it shall be valid if it is signed by 15% of the electors of the local government and meets the following requirements:

(a) contains a statement of the purpose for which it is circulated, sufficient to meet the specific criteria set out in the section authorizing the petition;

(b) each signature is followed by the printed name of the signer, the address of the signer's place of residence, and the date of the signing; and

(c) the petition contains the date it was first circulated and a statement that all signatures must be collected within 90 days of that date.

(2) Unless otherwise provided, all petitions shall be filed with the county election administrator, who shall determine the sufficiency of the signatures. No petition filed after the deadline for filing the petition, if any, shall be considered.

(3) Within 10 working days of the date the petition was filed, the county election administrator shall determine the adequacy of the petition.

(4) Inadequate petitions shall be returned but may be amended or supplementary signatures may be obtained, and the petition may be refiled prior to the deadline for filing the petition.

(5) Within 10 days of its second filing, the county election administrator shall again determine the adequacy of the petition. If it is still determined inadequate, it shall be rejected without prejudice to the filing of a new petition to the same effect.

(6) If a petition is determined adequate, the county election administrator shall certify its adequacy and submit

it to the governing body without delay.

(7) A person may in writing withdraw his signature from a previously filed petition at any time prior to final action of the governing body.

(8) The department of community affairs, in cooperation with the secretary of state, shall prepare and provide each municipality with:

(a) a standard petition form;

(b) sample petition forms for inititatives, referendums, and recall elections; and

(c) sample petition forms for creation of districts.

(9) Each municipality shall make available to the public on request sample petition forms.

Section 7. Public hearing. (1) When required, the governing body shall conduct public hearings for the purpose of providing reasonable opportunity for citizen participation prior to final decisions.

(2) At a minimum, a public hearing shall provide for submission of both oral and written testimony for and against the action or matter at issue. If the hearing is not held before the ultimate decision makers, provision shall be made for the transmittal of a summary or transcript of the testimony received to the ultimate decision makers prior to their determination.

(3) Public hearings may be held at regular or special

meetings of the governing body.

(4) Petitions and letters received by the governing body or executive prior to the hearing shall be entered by reference into the minutes of the governing body and considered as other testimony received at the hearing.

(5) Hearings may be adjourned from day to day or to a date certain.

(6) Except for budget hearings, the governing body may designate a subcommittee or hearing examiner to conduct public hearings.

Section 8. Protest. (1) Whenever a protest is authorized, it is sufficient if it is in writing, signed, and contains the following:

(a) a description of the action protested sufficient to identify the action against which the protest is lodged;

(b) a statement of the protestor's qualifications to protest the action against which the protest is lodged, including ownership of property affected by the action; and

(c) the address of the person protesting.

(2) Protests shall be submitted as provided by law and ordinance. The person receiving protests for a local government shall note on each protest the date it was received.

(3) A protest which contains the required information may be signed by more than one person. A protest signed by

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more than one person is a valid protest by each signer.

(4) A person may in writing withdraw a previously filed protest at any time prior to final action by the governing body.

(5) Signers are encouraged to print their names after their signatures.

Section 9. Signatures. (1) The signatures and addresses on petitions shall be the same as the signatures and addresses on voter registration cards and, if not registered or if not required by law to be an elector, their common signature.

(2) The signatures on protests and waivers shall be the accepted common signatures.

Section 10. Rights on behalf of government or corporation. The chief executive of a municipality or political subdivision of the state, the responsible agent of a federal or state agency, or the chief executive officer of a corporation may exercise the right of petition, protest, or voting on behalf of property owned by the government or corporation.

Section 11. Posting. (1) The governing body shall specify by resolution a public location for posting information and shall order erected a suitable posting board.

(2) When posting is required, a copy of the document

shall be placed on the posting board, and a copy shall be available at the municipal office.

Section 12. Oaths. The chief executive and all elected municipal officers may administer oaths.

Section 13. Oath of office. Every elected municipal officer shall take the oath of office prescribed in Article III, section 4, of the Montana constitution. The oath of office, certified by the official before whom the same was taken, shall be filed with the county election administrator before the officer exercises any official duties.

Section 14. Public servants. All municipal officers and employees are public servants for the purpose of determining the offense of obstructing a public servant as provided in 45-7-302.

Section 15. Waiver of mail notice or protest. (1) If all persons entitled to mail notice waive in writing the mail notice requirement, the governing body may proce without the required mail notice.

(2) If all persons entitled to protest an action waive in writing their right to protest, the governing body may proceed without publishing notice or meeting other requirements designed to permit protests to be filed.

(3) A waiver is sufficient if it is in writing, signed, and contains the following:

(a) a description of the mailed notice or protest

right waived;

(b) a statement of the protestor's qualifications to waive the mailed notice or protest right;

(c) the address of the person;

(d) a statement that the waiver of notice is voluntarily and knowingly given, with knowledge of the signer's constitutional rights to notice.

(4) Waivers shall be submitted as provided by law and ordinance. The person receiving waivers for a local government shall note on each waiver the date it was received.

(5) A waiver which contains the required information may be signed by more than one person. A waiver signed by more than one person is a valid waiver by each signer.

(6) Signers are encouraged to print their names after their signatures.

Section 16. Facsimile signature. Any officer or employee may use a facsimile signature or seal as provided in Title 2, chapter 16.

Section 17. Public meeting required. (1) All meetings of municipal governing bodies, boards, authorities, committees, or other entities created by a municipality shall be open to the public except as provided in 2-3-203.

(2) Appropriate minutes shall be kept of all public meetings and shall be made available upon request to the

public for inspection and copying.

Section 18. Public participation. Each municipal governing body, committee, board, authority, or entity, in accordance with Article II, section 8, of the Montana constitution and Title 2, chapter 3, shall develop procedures for permitting and encouraging the public to participate in decisions that are of significant interest to the public.

Section 19. Participation. In any meeting required to be open to the public, the governing body, committee, board, authority, or entity shall adopt rules for conducting the meeting, affording citizens a reasonable opportunity to participate prior to the final decision.

Section 20. Public records. (1) Except as provided in subsection (2), all records and other written materials in the possession of a municipality shall be available for inspection and reproduction by any person during normal office hours. The governing body may impose reasonable fees for providing copies of public records.

(2) Personal records, medical records, and other records which relate to matters in which the right to individual privacy exceeds the merits of public disclosure shall not be available to the public unless the person they concern requests they be made public.

(3) Except as provided by law and as determined by the

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chief law enforcement administrator, law enforcement records which relate to matters in which the right to individual privacy or law enforcement security exceeds the merits of public disclosure shall not be available to the public.

Section 21. State reports. (1) Municipal governing bodies, chief executives, officers, employees, departments, boards, and authorities shall file with state agencies in a timely fashion all reports and information required by state law.

(2) The department of community affairs shall coordinate to the greatest extent possible the collection of data by state and federal agencies in order to minimize the requests of municipalities and to maximize access to information collected on municipalities.

(3) Prior to requesting reports from a municipality, all state agencies shall notify the department of community affairs of the intended request.

Section 22. Reports of departments, boards, and authorities. (1) All departments, boards, and authorities shall file an annual report with the chief executive, who shall compile the reports and present them to the governing body.

(2) The chief executive may specify the form, content, and deadline for filing reports.

Section 23. Distribution of powers. (1) A municipality

has legislative, executive, and judicial powers.

(2) All legislative powers are vested in the governing body of the municipality.

(3) Executive powers are vested as provided in the form of government adopted by the municipality.

(4) The judicial powers of a municipality are vested in the municipal court.

Section 24. Legislative powers. A municipality with general powers has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:

(1) preserve peace and order and secure freedom from dangerous or noxious activities;

(2) secure and promote the general public health and welfare;

(3) provide any service or perform any function authorized or required by state law;

(4) exercise any power granted by state law;

(5) levy any tax authorized by state law;

(6) appropriate public funds;

(7) impose a special assessment reasonably related to the cost of any special service or special benefit provided by the municipality or impose a fee for the provision of a service;

(8) grant franchises; and

(9) provide for its own organization and the management of its affairs.

Section 25. Powers. A municipality with general powers has the power, subject to the provisions of state law, to:

(1) enact ordinances and resolutions;

(2) sue and be sued;

(3) buy, sell, mortgage, rent, lease, hold, manage, or dispose of any interest in real or personal property;

(4) contract with persons, corporations, or any other governmental entity;

(5) pay debts and expenses;

(6) borrow money;

(7) solicit and accept bequests, donations, or grants of money, property, services, or other advantages and comply with any condition that is not contrary to the public interest;

(8) execute documents necessary to receive money, property, services, or other advantages from the state government, the federal government, or any other source;

(9) make grants and loans of money, property, and services for public purposes;

(10) require the attendance of witnesses and production of documents relevant to matters being considered by the governing body;

(11) hire, direct, and discharge employees and appoint

and remove members of boards;

(12) ratify any action of the municipality or its officers or employees which could have been approved in advance;

(13) have a corporate seal and flag;

(14) acquire by eminent domain as provided in Title 70, chapter 30, any interest in property to provide any service or facility authorized by law;

(15) initiate a civil action to restrain or enjoin violation of an ordinance;

(16) enter private property, obtaining warrants when necessary, for the purpose of enforcing ordinances that affect the general welfare and public safety;

(17) conduct a census;

(18) conduct inventories of public property and preparatory studies;

(19) condemn and demolish hazardous structures;

(20) purchase insurance and establish self-insurance plans;

(21) impound animals and other private property creating a nuisance or obstructing a street or highway;

(22) establish quarantines; and

(23) exercise powers not inconsistent with law necessary for effective administration of authorized services and functions.

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Section 26. Limit on liability. (1) As provided in Article II, section 18, of the Montana constitution, a municipality has no immunity from suit for injury to a person or property, except as may be specifically provided by law by a two-thirds vote of each house of the legislature.

(2) A local government has the right but not the duty to purchase insurance to protect against claims for injury to a person or property.

(3) Local governments are subject to the provisions of Title 2, chapter 9.

Section 27. State technical advice and assistance. (1) All state agencies are authorized and encouraged to provide technical assistance to municipalities.

(2) The technical assistance services shall not include those that can be as reasonably and expeditiously obtained through business channels.

(3) State agencies are encouraged to develop the capacity to provide technical advice and assistance without charge to municipalities, but they are also encouraged to establish service charges for special or extraordinary technical advice.

(4) The department of community affairs shall coordinate technical advice and assistance provided to municipalities by state agencies.

(5) State agencies may lend personnel, equipment, and machinery to municipalities.

Section 28. Penalty. Where a municipality is required by state law to provide information to a state agency and fails to provide the required information, the department of community affairs may issue an order stopping payment of any state financial aid to the municipality. Upon provision of the information, all financial aid which was stopped because of failure to provide the information shall be paid to the municipality.

Section 29. Applicability. (1) Except as provided in subsection (2), a provision of [sections 1 through 28] applies only in the absence of other laws governing the same subject matter.

(2) The governing body may by ordinance adopt the procedures and provisions contained in [sections 1 through 28] and make them applicable to all proceedings before the body.

Section 30. Repealer. Sections 7-1-4103 and 7-1-4104 are repealed.

Section 31. Codification. Sections 1 through 29 are intended to be codified as an integral part of Title 7, chapter 1, part 41, and the provisions contained in Title 7, chapter 1, part 41, apply to sections 1 through 29.

-End-

46 th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT -- SENATE BILLS

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON-CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON CURRED IN DATE
SB 353	2-3	2-13	2-13			2-13			
SB 356	2-3	2-10;2-13	2-13			2-13			
SB 366	2-5	2-10	tabled						
SB 397	2-7	2-15	2-15	2-15					
SB 412	2-7	2-15	2-15	2-15					
SB 417	2-8	2-15;2-17	tabled						
SB 462	2-12	2-17	2-17	2-17					
SB 471	2-12	2-17	tie vote						
SB 502	2-14	2-15;2-17	2-17	2-17					
SB 503	2-14	2-15;2-17	2-17			2-17			
SB 505	2-14	2-15;2-17	tabled						
SB 518	2-15	2-17	tabled						

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 15, 1979

The meeting of the Local Government Committee was called to order by Chairman George McCallum on Thursday, February 15, 1979 at 7:30 p.m. in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senators Story, Peterson and Thomas who were excused.

Dennis Taylor, staff researcher, was in attendance.

Visitors were also in attencance. (See attachment.)

CONSIDERATION OF SENATE BILL 502: Senator A. T. (Tom) Rasmussen, sponsor of the bill, of Senate District 16, gave a brief resume of the bill. This bill is an act to allow a municipal governing body to order the installation and assessment of repair or replacement of utility service lines in certain circumstances without the formation of a special improvement district. Senator Rasmussen introduced Earl Tuffte of the City of Helena who stated that cities have had problems for a long time in areas where street improvements are being constructed, particularly in older areas of communities where the water system improvements are old and in need of repair. Prior to putting permanent street improvements in such areas, cities have attempted to upgrade the water systems so that failures will not occur and destroy the new streets. However, a problem exists with the serviceline connections from the city-owned water mains to the residential properties adjacent to the improvements. Mr. Tuffte stated this bill would save a lot of expenses.

Sonny Hansen, representing the Montana Technical Council, stated that they rebuilt the sewers and, therefore, they had to rebuild the streets. Mr. Hansen stated that he supports this bill.

Dave Stahey, a consulting engineer, favors SB 502. Mr. Stahey stated that patchwork on the streets is not as good as the original job and, therefore, the streets will deteriorate. He does not want to have to rebuild the streets.

David Hunter, representing the City of Helena, said passage of this legislation would allow cities to order in new servicelines when the need arises with a resultant benefit to all parties concerned. Mr. Hunter stated this would be aside from the S.I.D. procedures.

With no further proponents, Chairman McCallum called on the opponents. Hearing none, Senator Rasmussen closed the hearing by asking the Committee to please pass Senate Bill 502.

Senator McCallum opened the meeting to a question and answer period from the Committee. No action was taken.

CONSIDERATION OF SENATE BILL 503: Senator Lloyd Lockrem, Jr., of Senate District 32, sponsor of the bill, gave a brief resume. This bill is an act to establish general provisions and definitions common to all forms of municipal government with general powers; to outline general powers; and to establish basic requirements for public meetings, records, and reports. Senator Lockrem stated that this bill solves some of the administrative problems facing Missoula. It also cleans up some language in the codes.

Larry Grahl, representing the City of Billings and also the League of Cities and Towns, stated his support of the bill.

Senator Lockrem asked the Committee to hold the bill, as his main witnesses were not able to attend the hearing because of bad roads. Everyone felt this would be permissible.

ADJOURN: With no further business the meeting was adjourned at 8:10. The next meeting will be held on Saturday, February 17, 1979, to consider Senate Bills 462, 471, and 518.

George McCallum

CHAIRMAN, Senator George McCallum

7 pm

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN	✓		
MAX CONOVER	✓		
JESSE A. O'HARA	✓		
BOB PETERSON			✓
A. T. (TOM) RASMUSSEN	✓		
PETE STORY			✓
BILL THOMAS			✓
ROBERT D. WATT	✓		

Each Day Attach to Minutes.

SENATE

SENATE _____ COMMITTEE

BILL _____ VISITORS' REGISTER DATE _____

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPP
LARRY GRAHL	City of Billings + League of Cities & Tow	503	X	
DAVE STAHLY	CONSULTING ENGR	502	X	
[illegible]	[illegible]	[illegible]	[illegible]	
H S Hanson	Mont Ted Council	502	✓	
[illegible] Hunter	City of [illegible]	502	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

A motion was made by Senator Thomas that Senate Bill 417 be tabled. Motion carried.

DISPOSITION OF SENATE BILL 505: This bill is in regard to compensation for county sheriffs and their deputies. After some discussion, it was decided that perhaps SB 229 could be amended on the floor to give a higher salary to the sheriffs rather than have two or three separate bills.

A motion was made by Senator Thomas that Senate Bill 505 be tabled.

DISPOSITION OF SENATE BILL 503: This bill is in regard to establishing general provisions and definitions common to all forms of municipal government with general powers.

Senator Watt explained the proposed amendments. Discussion was held.

A motion was made by Senator Watt that the proposed amendments to SB 503 be adopted. Motion carried.

Dennis Taylor pointed out that the bill has a typing error from the Legislative Council that needs correcting.

A motion was made by Senator O'Hara to accept an amendment which would clear up the mistake. Motion carried.

A motion was made by Senator Watt that Senate Bill 503 receive a "DO PASS, as amended" recommendation. Motion carried, however, three Senators voted "no". (See attachment.)

CONSIDERATION OF SENATE BILL 471: Senator Chet Blaylock, of Senate District 35, gave a brief resume of the bill. This bill is an act to revise the laws relating to municipal water and sewer rates; removing municipally owned water and sewer systems from the definition of "public utility"; requiring municipally owned water and sewer systems to file rate changes and annual financial reports with the Public Service Commission; establishing a municipal water and sewer rates appeal procedure.

Dan Mizner, of the League of Cities and Towns, stated that his group had worked with the Public Service Commission on this bill. If this bill is passed it should reduce the cost of water rates and would eliminate the hearings. Mr. Mizner stated he had heard from the towns of Sidney, Shelby, and Glendive, who had all planned on being at the hearing but, because of bad road conditions, could not attend, however, they did want to go on record as being in support of the bill.

Dean Holmes, mayor of Miles City, stated he is sure that the local governing bodies will not get out of line in their

Date 2-16-79

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN	✓		
MAX CONOVER	✓		
JESSE A. O'HARA	✓		
BOB PETERSON			✓
A. T. (TOM) RASMUSSEN	✓		
PETE STORY	✓		
BILL THOMAS	✓		
ROBERT D. WATT	✓		

Each Day Attach to Minutes.

SENATE

STANDING COMMITTEE REPORT

February 17 19 79

MR. President:

We, your committee on Local Government

having had under consideration Senate Bill No. 503

Respectfully report as follows: That Senate Bill No. 503,

introduced bill be amended as follows:

1. Page 6, line 18.
Following: "prescribed in"
Strike: "20.3-105"
Insert: "2-3-105"

2. Page 6, line 19.
Following: line 13
Strike: "20-3-107"
Insert: "2-3-107"

3. Page 7, line 21.
Following: "electors of the"
Strike: "local Government"
Insert: "municipality"

DO PASS

(Continued)

Chairman.

STATE PUB. CO.
Helena, Mont.

20

4. Page 8, line 25.
Following: "shall"
Insert: ": (a)"

5. Page 9, line 1.
Following: "delay"
Insert: ";
(b) submit a copy of the petition to the attorney of the municipality"

6. Page 9, line 4.
Following: line 4
Insert: "(8) The attorney for the municipality shall prepare and transmit to the governing body without delay a concise statement not exceeding 100 words. This statement shall express a true and impartial explanation of the purpose of the proposed ballot issue in plain, easily understood language. The statement may not intentionally be an argument and may not intentionally be written so as to create prejudice for or against the measure.

(a) At the same time the statement of purpose is prepared, the attorney shall prepare statements of the implications of a vote for or against a ballot issue. The statements of implication may be no more than 25 words each and shall be in simple, impartialy language clearly explaining the meaning of a vote for and a vote against the issue.

(9) Prior to an election, or an official action involving a petition issue, the governing body shall publish copies of the statement of purpose and statement of implications to the procedure established in [section 4]."

Renumber subsequent subsections

7. Page 10, line 21.
Strike: "local"

8. Page 10, line 21.
Following: line 22
Strike: "government"
Insert: "municipality"

(Continued)

Chairman.

STATE PUB. CO.
Helena, Mont.

9. Page 11, line 11.
Following: "signature."
Insert: "If the elector has signed using an initial letter only in place of a name written on the registry card or using a name or the initial letter of a name that is not on the registry card, the signature may nevertheless be counted so long as the signature, taken as a whole, bears sufficient similarity to the signature on the registry card as to provide reasonable certainty of its authenticity."

P.C.

And, as so amended, DO PASS

George McCallum
Chairman.

STATE PUB. CO.
Helena, Mont.

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LOCAL GOVERNMENT COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 462	To stagger elections of directors of county water/sewer district., require directors to reside & own property in district	2/23/79	MANLEY	Thurs. Mar. 8	AND AS AMENDED BE CONCURRED IN	3/15/79
SB 503	To establish general provisions & definitions common to municipalities, outline powers, establish requirements for public meetings	2/23/79	LOCKREM	Thurs. Mar. 8	BE CONCURRED IN	3/15/79
SB 41	To modify the requirements for dedication of parkland for subdivisions; allowing a portion of park money to be used for maintenance of existing..	2/28/79	DOVER	Tue. Mar. 13	AND AS AMENDED BE CONCURRED IN	3/15/79
SB 290	Authorizing dept. of community affairs to identify and mitigate aircraft hazards.	2/28/79	DOVER	Tue. Mar. 13	NOT CONCURRED IN	3/15/79
SB 352	Establish a county compensation board which shall develop a compensation schedule that must be used by Co. gov. body when setting salaries for elected Co. officials...	2/28/79	McCALLUM	Tue. Mar. 13	AND AS AMENDED BE CONCURRED IN	3/19/79
HJR 54	An Interim study of Montana's Annexation Laws	3/9/79	GOULD	Thurs. March 15 11:30 am	AND AS AMENDED DO PASS	3/15/79

MARCH 8, 1979
PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE
HOUSE OF REPRESENTATIVES
46th Session

A meeting of the Local Government Committee of the House of Representatives was called to order at 11:30 a.m. in Room 3 of the Capitol Annex on Thursday, March 8, 1979 by Chairman Hershel Robbins. The purpose of the meeting was to hear SB 49, SB 263, SB 267, SB 449, SB 462, SB 412 and SB 503. The roll was taken and shows Representative McBride, Representative Waldron, Representative Kemmis, Representative South and Representative Vinger being excused. All other committee members were present.

SENATE BILL 503: Chairman Robbins requested Senator Lockrem to explain to the committee SB 503 (an act to establish general provisions and definitions common to municipalities, outline powers, establish requirements for public meetings). Senator Lockrem told the committee this bill is not a recodification bill, but it clarifies definitions relating to local government.

Chairman Robbins called for proponents. Ms. M. Ellison, County Attorney for Missoula County, Missoula, Montana, explained to the committee that this bill clarifies procedures which can be followed in publishing notices for annexation, SID zones. There currently are no procedures as how that should be provided and this bill takes care of that. This bill also clarifies the rights of a local government body in a public hearing. These are the major points of the bill and it clarifies problems local governments are having and cleans up the law to some extent.

There were no opponents to the bill present.

The committee was allowed to question the witnesses. The hearing on SB 503 was closed.

SENATE BILL 49: Chairman Robbins requested Senator Peterson to explain SB 49 (an act to revise the law pertaining to the investment of fire department relief association pension funds in municipalities other than first- and second-class cities). Senator Peterson told the committee this bill is a simple housekeeping bill.

Chairman Robbins called for proponents of the bill. Don Dooley, representing the Department of Community Affairs, said this bill

MARCH 15, 1979
PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE
HOUSE OF REPRESENTATIVES
46th Session

A meeting of the Local Government Committee was called to order at 11:30 p.m. in Room 3 of the Capitol Annex on Thursday, March 15, 1979 by Chairman Hershel Robbins. The purpose of the meeting was to hear HJR 54, HJR 57 and to take executive action on the bills heard to date. The roll was taken and showed Representative South, Representative Hurwitz and Representative Kemmis absent and Representative Kessler was shown as excused. All other committee members were present.

HJR 54: Chairman Robbins requested Representative Gould to explain HJR 54 (a resolution of the Senate and the House of Representatives of the State of Montana for an interim study of Montana's Annexation Laws) to the committee.

Chairman Robbins called for proponents of the bill. Dan Mizner, representing the Montana League of Cities and Towns, pointed out that annexation in Montana has been a problem for several years and that his organization would support this bill. (See exhibit 1.)

Larry Grahl, representing the city of Billings, said, "The city of Billings strongly supports HJR 54 and would like to thank Representative Gould, of Missoula, for introducing this legislation which is an important step towards possible resolving of serious problems which have arisen in the area of annexation." (For complete written testimony, see exhibit 2.)

Jim Richards, Local Planning Services Bureau Chief, Planning Division, Department of Community Affairs, stated his support for this resolution.

David Hunter, representing the city of Helena, told the committee that he feels this resolution will help solve problems of annexation for Helena and stated his support for the resolution.

There were no opponents to HJR 54 present.

The committee was allowed to question the witnesses and the hearing was closed.

HJR 57: Chairman Robbins, sponsor of HJR 57 (a joint resolution of the Senate and the House of Representatives of the State of Montana commending members of the Montana Army National Guard and Montana Air National Guard for their exemplary efforts to assist in the care and custody of persons for whom the state has responsi-

Representative Sales moved that SB 49 BE CONCURRED IN. The motion carried with Representative Vinger voting no.

Representative Gould moved that SB 224 BE CONCURRED IN. Representative McBride made a substitute motion that SB 224 BE NOT CONCURRED IN. There was discussion among the committee members. A roll call vote shows that the motion made by Representative McBride passed 8-4 with Representatives Donaldson, Gould, Sales and Vinger voting no.

Representative Reichert moved that SB 503 BE CONCURRED IN. The motion carried unanimously.

Representative Waldron moved to AMEND SB 356 on page 2, line 3, following "county" and inserting ", except as provided for in subsection (5)". The motion carried unanimously. Representative Azzara moved SB 356 As AMENDED, BE CONCURRED IN. The motion carried unanimously.

Representative Waldron moved SB 462 BE NOT CONCURRED IN. Representative Sales made a substitute motion that SB 462 BE AMENDED on page 1, line 15, following "district" strike "and" and insert "or". The motion carried unanimously. Representative Waldron withdrew his motion. Representative Sales moved that SB 462 AS AMENDED, BE CONCURRED IN. The motion carried with Representative Oberg voting no.

Representative Reichert moved that SB 267 BE NOT CONCURRED IN. The motion carried 9-3 with Representatives Gould, Vinger and Robbins voting no.

Representative Azzara moved to AMEND SB 263 by striking subsection (2). The motion carried unanimously. Representative Azzara moved that SB 263 AS AMENDED, BE CONCURRED IN. The motion carried unanimously.

Representative Reichert moved to AMEND SB 229 on page 5, line 12, by deleting the words "must be" and inserting in lieu thereof the words "shall not be less than". The motion carried with Representative Robbins voting no. Representative Reichert moved to AMEND SB 229 further on page 5, line 21, following the word "by", by inserting the words "not less than". Representative Sales made a substitute motion that section 2, page 4, lines 13 through 24 be stricken. The substitute motion failed 10-3 with Representatives Azzara, Moore and Sales voting yes. The vote was reversed. The motion made by Representative Reichert was then voted on and passed with Representatives Azzara, Moore and Sales voting no. Representative Gould moved that SB 229 AS AMENDED, BE CONCURRED IN. The motion carried with Representatives Moore and Sales voting no.

SENATE BILL NO. 503

INTRODUCED BY LOCKREM, WATT

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH GENERAL PROVISIONS AND DEFINITIONS COMMON TO ALL FORMS OF MUNICIPAL GOVERNMENT WITH GENERAL POWERS; TO OUTLINE GENERAL POWERS; AND TO ESTABLISH BASIC REQUIREMENTS FOR PUBLIC MEETINGS, RECORDS, AND REPORTS; REPEALING SECTIONS 7-1-4103 AND 7-1-4104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. General definitions. As used in [sections 1 through 29], unless otherwise provided, the following definitions apply:

(1) "Charter" means a written document defining the powers, structure, privileges, rights, and duties of the government and limitations thereon.

(2) "Chief executive" means the elected executive in a government adopting the commission-executive form, the manager in a government adopting the commission-manager form, the chairman in a government adopting the commission-chairman form, the town chairman in a government adopting the town meeting form, the commission acting as a body in a government adopting the commission form, or the officer or officers so designated in the charter in a government adopting a charter.

(3) "Elector" means a resident of the municipality qualified and registered to vote under state law.

(4) "Employee" means a person other than an officer who is employed by a municipality.

(5) "Executive branch" means that part of the municipality, including departments, offices, and boards, charged with implementing actions approved and administering policies adopted by the governing body of the local government or performing the duties required by law.

(6) "Governing body" means the commission or town meeting legislative body established in the alternative form of local government.

(7) "Guideline" means a suggested or recommended standard or procedure to serve as an index of comparison and is not enforceable as a regulation.

(8) "Law" means a statute enacted by the legislature of Montana and approved and signed by the governor or a statute adopted by the people of Montana through statutory initiative procedures.

(9) "Municipality" means an entity which incorporates as a city or town.

(10) "Office of the municipality" means the permanent location of the seat of government from which the records administrator, or the office of the clerk of the governing

REFERENCE BILL

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body where one is appointed, carries out his duties.

(11) "Officer" means a person holding a position with a municipality which is ordinarily filled by election or, in those municipalities with a manager, the manager.

(12) "Ordinance" means an act adopted and approved by a municipality, having effect only within the jurisdiction of the local government.

(13) "Person" means any individual, firm, partnership, company, corporation, trust, trustee, assignee or other representative, association, or other organized group.

(14) "Plan of government" means a certificate submitted by a governing body that documents the basic form of government selected, including all applicable suboptions. The plan must establish the terms of all officers and the number of commissioners, if any, to be elected.

(15) "Political subdivision" refers to a local government, authority, school district, or multicounty agency.

(16) "Population" means the number of inhabitants as determined by an official federal, state, or local census or official population estimate approved by the department of community affairs.

(17) "Printed" means the act of reproducing a design on a surface by any process as defined by 1-1-203(3).

(18) "Public agency" means a political subdivision,

Indian tribal council, state or federal department or office, or the Dominion of Canada or any provincial department or office or political subdivision thereof.

(19) "Public property" means any and all property owned by a municipality or held in the name of a municipality by any of the departments, boards, or authorities of the local government.

(20) "Real property" means lands, structures, buildings, and interests in land, including lands under water and riparian rights, and all things and rights usually included within the term "real property", including not only fee simple absolute but also all lesser interests such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property.

(21) "Reproduced" means the act of reproducing a design on any surface by any process.

(22) "Resolution" means a statement of policy by the governing body or an order by the governing body that a specific action be taken.

(23) "Service" means an authorized function or activity performed by local government.

(24) "Structure" means the entire governmental organization through which a local government carries out its duties, functions, and responsibilities.

Section 2. Administrative rules. The governing body may by ordinance authorize the chief executive to adopt administrative rules. All administrative rules shall be entered in an administrative code that shall be available in the office of the municipality.

Section 3. Publish notice. (1) When a municipality is required to publish notice, publications shall be in a newspaper, except that in a municipality with a population of 500 or less or in which no newspaper is published, publication may be made by posting in three public places in the municipality, which have been designated by ordinance.

(2) The newspaper shall be:

(a) of general paid circulation with a second-class mailing permit;

(b) published at least once a week;

(c) published in the county where the municipality is located;

(d) published continuously in the county for the 12 months preceding the awarding of the contract.

(3) In a county where no newspaper meets these qualifications, publication shall be made in a qualified newspaper in an adjacent county.

(4) If a person is required by law or ordinance to pay for publication, the payment must be received before the publication may be made.

Section 4. Notice. When notice of a hearing or other official act is required, the following shall apply:

(1) The notice shall be published two times with at least 6 days separating each publication. The first publication shall be no more than 21 days prior to the action and the last no less than 3 days prior to the action.

(2) The published notice shall contain:

(a) the date, time, and place at which the hearing or other action will occur;

(b) a brief statement of the action to be taken;

(c) the address and telephone number of the person who can be contacted for further information on the action to be taken; and

(d) any other information required by the specific section requiring notice.

(3) A published notice required by law may be supplemented by a radio or television broadcast of the notice in the manner prescribed in ~~20-3-105~~ 2-3-105 through ~~20-3-107~~ 2-3-107.

Section 5. Mail notice. (1) Unless otherwise specifically provided, when a municipality is required to give notice of a hearing or other official act by mail, the requirement may be met by:

(a) deposit of the notice properly addressed in the United States mail with postage paid at the first-class

rate;

(b) sending the notice by registered or certified mail rather than first class; or

(c) mailing the notice at the bulk rate instead of first class when notice is to be given by mail to all electors or residents of a municipality.

(2) The notice shall contain:

(a) the date, time, and place at which the hearing or other action will be taken;

(b) a brief statement of the action to be taken;

(c) the address and telephone number of the person who can be contacted for further information on the action to be taken; and

(d) any other information required by the specific section requiring mail notice.

(3) When notice by mail is required, the requirement shall apply only to persons whose addresses are known.

Section 6. Petition. (1) Whenever a petition is authorized, unless the section authorizing the petition establishes different criteria, it shall be valid if it is signed by 15% of the electors of the ~~local-government~~ MUNICIPALITY and meets the following requirements:

(a) contains a statement of the purpose for which it is circulated, sufficient to meet the specific criteria set out in the section authorizing the petition;

(b) each signature is followed by the printed name of the signer, the address of the signer's place of residence, and the date of the signing; and

(c) the petition contains the date it was first circulated and a statement that all signatures must be collected within 90 days of that date.

(2) Unless otherwise provided, all petitions shall be filed with the county election administrator, who shall determine the sufficiency of the signatures. No petition filed after the deadline for filing the petition, if any, shall be considered.

(3) Within 10 working days of the date the petition was filed, the county election administrator shall determine the adequacy of the petition.

(4) Inadequate petitions shall be returned but may be amended or supplementary signatures may be obtained, and the petition may be refiled prior to the deadline for filing the petition.

(5) Within 10 days of its second filing, the county election administrator shall again determine the adequacy of the petition. If it is still determined inadequate, it shall be rejected without prejudice to the filing of a new petition to the same effect.

(6) If a petition is determined adequate, the county election administrator shall:

(A) certify its adequacy and submit it to the governing body without delay;

(B) SUBMIT A COPY OF THE PETITION TO THE ATTORNEY OF THE MUNICIPALITY.

(7) A person may in writing withdraw his signature from a previously filed petition at any time prior to final action of the governing body.

(8) THE ATTORNEY FOR THE MUNICIPALITY SHALL PREPARE AND TRANSMIT TO THE GOVERNING BODY WITHOUT DELAY A CONCISE STATEMENT NOT EXCEEDING 100 WORDS. THIS STATEMENT SHALL EXPRESS A TRUE AND IMPARTIAL EXPLANATION OF THE PURPOSE OF THE PROPOSED BALLOT ISSUE IN PLAIN, EASILY UNDERSTOOD LANGUAGE. THE STATEMENT MAY NOT INTENTIONALLY BE AN ARGUMENT AND MAY NOT INTENTIONALLY BE WRITTEN SO AS TO CREATE PREJUDICE FOR OR AGAINST THE MEASURE.

(A) AT THE SAME TIME THE STATEMENT OF PURPOSE IS PREPARED, THE ATTORNEY SHALL PREPARE STATEMENTS OF THE IMPLICATIONS OF A VOTE FOR OR AGAINST A BALLOT ISSUE. THE STATEMENTS OF IMPLICATION MAY BE NO MORE THAN 25 WORDS EACH AND SHALL BE IN SIMPLE, IMPARTIAL LANGUAGE CLEARLY EXPLAINING THE MEANING OF A VOTE FOR AND A VOTE AGAINST THE ISSUE.

(B) PRIOR TO AN ELECTION OR AN OFFICIAL ACTION INVOLVING A PETITION ISSUE, THE GOVERNING BODY SHALL PUBLISH COPIES OF THE STATEMENT OF PURPOSE AND STATEMENT OF

IMPLICATIONS TO THE PROCEDURE ESTABLISHED IN [SECTION 4].

~~(8)~~(9) The department of community affairs, in cooperation with the secretary of state, shall prepare and provide each municipality with:

(a) a standard petition form;

(b) sample petition forms for inititatives, referendums, and recall elections; and

(c) sample petition forms for creation of districts.

~~(9)~~(10) Each municipality shall make available to the public on request sample petition forms.

Section 7. Public hearing. (1) When required, the governing body shall conduct public hearings for the purpose of providing reasonable opportunity for citizen participation prior to final decisions.

(2) At a minimum, a public hearing shall provide for submission of both oral and written testimony for and against the action or matter at issue. If the hearing is not held before the ultimate decision makers, provision shall be made for the transmittal of a summary or transcript of the testimony received to the ultimate decision makers prior to their determination.

(3) Public hearings may be held at regular or special meetings of the governing body.

(4) Petitions and letters received by the governing body or executive prior to the hearing shall be entered by

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reference into the minutes of the governing body and considered as other testimony received at the hearing.

(5) Hearings may be adjourned from day to day or to a date certain.

(6) Except for budget hearings, the governing body may designate a subcommittee or hearing examiner to conduct public hearings.

Section 8. Protest. (1) Whenever a protest is authorized, it is sufficient if it is in writing, signed, and contains the following:

(a) a description of the action protested sufficient to identify the action against which the protest is lodged;

(b) a statement of the protestor's qualifications to protest the action against which the protest is lodged, including ownership of property affected by the action; and

(c) the address of the person protesting.

(2) Protests shall be submitted as provided by law and ordinance. The person receiving protests for a ~~local~~ government MUNICIPALITY shall note on each protest the date it was received.

(3) A protest which contains the required information may be signed by more than one person. A protest signed by more than one person is a valid protest by each signer.

(4) A person may in writing withdraw a previously filed protest at any time prior to final action by the

governing body.

(5) Signers are encouraged to print their names after their signatures.

Section 9. Signatures. (1) The signatures and addresses on petitions shall be the same as the signatures and addresses on voter registration cards and, if not registered or if not required by law to be an elector, their common signature. IF THE ELECTOR HAS SIGNED USING AN INITIAL LETTER ONLY IN PLACE OF A NAME WRITTEN ON THE REGISTRY CARD OR USING A NAME OR THE INITIAL LETTER OF A NAME THAT IS NOT ON THE REGISTRY CARD, THE SIGNATURE MAY NEVERTHELESS BE COUNTED SO LONG AS THE SIGNATURE, TAKEN AS A WHOLE, BEARS SUFFICIENT SIMILARITY TO THE SIGNATURE ON THE REGISTRY CARD AS TO PROVIDE REASONABLE CERTAINTY OF ITS AUTHENTICITY.

(2) The signatures on protests and waivers shall be the accepted common signatures.

Section 10. Rights on behalf of government or corporation. The chief executive of a municipality or political subdivision of the state, the responsible agent of a federal or state agency, or the chief executive officer of a corporation may exercise the right of petition, protest, or voting on behalf of property owned by the government or corporation.

Section 11. Posting. (1) The governing body shall specify by resolution a public location for posting

information and shall order erected a suitable posting board.

(2) When posting is required, a copy of the document shall be placed on the posting board, and a copy shall be available at the municipal office.

Section 12. Oaths. The chief executive and all elected municipal officers may administer oaths.

Section 13. Oath of office. Every elected municipal officer shall take the oath of office prescribed in Article III, section 4, of the Montana constitution. The oath of office, certified by the official before whom the same was taken, shall be filed with the county election administrator before the officer exercises any official duties.

Section 14. Public servants. All municipal officers and employees are public servants for the purpose of determining the offense of obstructing a public servant as provided in 45-7-302.

Section 15. Waiver of mail notice or protest. (1) If all persons entitled to mail notice waive in writing the mail notice requirement, the governing body may proceed without the required mail notice.

(2) If all persons entitled to protest an action waive in writing their right to protest, the governing body may proceed without publishing notice or meeting other requirements designed to permit protests to be filed.

(3) A waiver is sufficient if it is in writing, signed, and contains the following:

(a) a description of the mailed notice or protest right waived;

(b) a statement of the protestor's qualifications to waive the mailed notice or protest right;

(c) the address of the person;

(d) a statement that the waiver of notice is voluntarily and knowingly given, with knowledge of the signer's constitutional rights to notice.

(4) Waivers shall be submitted as provided by law and ordinance. The person receiving waivers for a local government shall note on each waiver the date it was received.

(5) A waiver which contains the required information may be signed by more than one person. A waiver signed by more than one person is a valid waiver by each signer.

(6) Signers are encouraged to print their names after their signatures.

Section 16. Facsimile signature. Any officer or employee may use a facsimile signature or seal as provided in Title 2, chapter 16.

Section 17. Public meeting required. (1) All meetings of municipal governing bodies, boards, authorities, committees, or other entities created by a municipality

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shall be open to the public except as provided in 2-3-203.

(2) Appropriate minutes shall be kept of all public meetings and shall be made available upon request to the public for inspection and copying.

Section 18. Public participation. Each municipal governing body, committee, board, authority, or entity, in accordance with Article II, section 8, of the Montana constitution and Title 2, chapter 3, shall develop procedures for permitting and encouraging the public to participate in decisions that are of significant interest to the public.

Section 19. Participation. In any meeting required to be open to the public, the governing body, committee, board, authority, or entity shall adopt rules for conducting the meeting, affording citizens a reasonable opportunity to participate prior to the final decision.

Section 20. Public records. (1) Except as provided in subsection (2), all records and other written materials in the possession of a municipality shall be available for inspection and reproduction by any person during normal office hours. The governing body may impose reasonable fees for providing copies of public records.

(2) Personal records, medical records, and other records which relate to matters in which the right to individual privacy exceeds the merits of public disclosure

shall not be available to the public unless the person they concern requests they be made public.

(3) Except as provided by law and as determined by the chief law enforcement administrator, law enforcement records which relate to matters in which the right to individual privacy or law enforcement security exceeds the merits of public disclosure shall not be available to the public.

Section 21. State reports. (1) Municipal governing bodies, chief executives, officers, employees, departments, boards, and authorities shall file with state agencies in a timely fashion all reports and information required by state law.

(2) The department of community affairs shall coordinate to the greatest extent possible the collection of data by state and federal agencies in order to minimize the requests of municipalities and to maximize access to information collected on municipalities.

(3) Prior to requesting reports from a municipality, all state agencies shall notify the department of community affairs of the intended request.

Section 22. Reports of departments, boards, and authorities. (1) All departments, boards, and authorities shall file an annual report with the chief executive, who shall compile the reports and present them to the governing body.

(2) The chief executive may specify the form, content, and deadline for filing reports.

Section 23. Distribution of powers. (1) A municipality has legislative, executive, and judicial powers.

(2) All legislative powers are vested in the governing body of the municipality.

(3) Executive powers are vested as provided in the form of government adopted by the municipality.

(4) The judicial powers of a municipality are vested in the municipal court.

Section 24. Legislative powers. A municipality with general powers has the legislative power, subject to the provisions of state law, to adopt, amend, and repeal ordinances and resolutions required to:

(1) preserve peace and order and secure freedom from dangerous or noxious activities;

(2) secure and promote the general public health and welfare;

(3) provide any service or perform any function authorized or required by state law;

(4) exercise any power granted by state law;

(5) levy any tax authorized by state law;

(6) appropriate public funds;

(7) impose a special assessment reasonably related to the cost of any special service or special benefit provided

by the municipality or impose a fee for the provision of a service;

(8) grant franchises; and

(9) provide for its own organization and the management of its affairs.

Section 25. Powers. A municipality with general powers has the power, subject to the provisions of state law, to:

(1) enact ordinances and resolutions;

(2) sue and be sued;

(3) buy, sell, mortgage, rent, lease, hold, manage, or dispose of any interest in real or personal property;

(4) contract with persons, corporations, or any other governmental entity;

(5) pay debts and expenses;

(6) borrow money;

(7) solicit and accept bequests, donations, or grants of money, property, services, or other advantages and comply with any condition that is not contrary to the public interest;

(8) execute documents necessary to receive money, property, services, or other advantages from the state government, the federal government, or any other source;

(9) make grants and loans of money, property, and services for public purposes;

(10) require the attendance of witnesses and production

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of documents relevant to matters being considered by the governing body;

(11) hire, direct, and discharge employees and appoint and remove members of boards;

(12) ratify any action of the municipality or its officers or employees which could have been approved in advance;

(13) have a corporate seal and flag;

(14) acquire by eminent domain as provided in Title 70, chapter 30, any interest in property to provide any service or facility authorized by law;

(15) initiate a civil action to restrain or enjoin violation of an ordinance;

(16) enter private property, obtaining warrants when necessary, for the purpose of enforcing ordinances that affect the general welfare and public safety;

(17) conduct a census;

(18) conduct inventories of public property and preparatory studies;

(19) condemn and demolish hazardous structures;

(20) purchase insurance and establish self-insurance plans;

(21) impound animals and other private property creating a nuisance or obstructing a street or highway;

(22) establish quarantines; and

(23) exercise powers not inconsistent with law necessary for effective administration of authorized services and functions.

Section 26. Limit on liability. (1) As provided in Article II, section 18, of the Montana constitution, a municipality has no immunity from suit for injury to a person or property, except as may be specifically provided by law by a two-thirds vote of each house of the legislature.

(2) A local government has the right but not the duty to purchase insurance to protect against claims for injury to a person or property.

(3) Local governments are subject to the provisions of Title 2, chapter 9.

Section 27. State technical advice and assistance. (1) All state agencies are authorized and encouraged to provide technical assistance to municipalities.

(2) The technical assistance services shall not include those that can be as reasonably and expeditiously obtained through business channels.

(3) State agencies are encouraged to develop the capacity to provide technical advice and assistance without charge to municipalities, but they are also encouraged to establish service charges for special or extraordinary technical advice.

(4) The department of community affairs shall coordinate technical advice and assistance provided to municipalities by state agencies.

(5) State agencies may lend personnel, equipment, and machinery to municipalities.

Section 28. Penalty. Where a municipality is required by state law to provide information to a state agency and fails to provide the required information, the department of community affairs may issue an order stopping payment of any state financial aid to the municipality. Upon provision of the information, all financial aid which was stopped because of failure to provide the information shall be paid to the municipality.

Section 29. Applicability. (1) Except as provided in subsection (2), a provision of [sections 1 through 28] applies only in the absence of other laws governing the same subject matter.

(2) The governing body may by ordinance adopt the procedures and provisions contained in [sections 1 through 28] and make them applicable to all proceedings before the body.

Section 30. Repealer. Sections 7-1-4103 and 7-1-4104 are repealed.

Section 31. Codification. Sections 1 through 29 are intended to be codified as an integral part of Title 7,

chapter 1, part 41, and the provisions contained in Title 7, chapter 1, part 41, apply to sections 1 through 29.

-End-